

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSEPH S. MITCHELL,
Plaintiff

v.

J. SAGE, Chief Psychologist, USP-
Lewisburg; KEVIN PIGOS, Doctor-
Medical/Clinical Director, USP-
Lewisburg; DOCTOR BROWN;
DOCTOR ANDREW EDINGER;
S. DEES, NREMT-P;
HOLZAPLE, Associate Warden;
J.E. THOMAS, Warden;
JOHN DOES 1-10;
FEDERAL BUREAU OF
PRISONS; and UNITED STATES,
Defendants

No. 3:14cv905
(Judge Munley)
(Magistrate Judge Blewitt)

ORDER

AND NOW, to wit, this 30th day of October 2014, it is hereby
ORDERED as follows:

- 1) Plaintiff's Objections to Report and Recommendation (Doc. 16) are **OVERRULED** except for the objection with regard to the Bivens action against Defendant Dees, which is **SUSTAINED**.
- 2) The Report and Recommendation of Magistrate Judge Blewitt dated July 21, 2014 (Doc. 12) is hereby **ADOPTED** in part as follows:
 - a) Plaintiff's request for a specific amount of monetary damages is **STRICKEN** from the complaint;
 - b) Plaintiff's claims for damages against defendants in their official capacities are **DISMISSED** with prejudice;
 - c) Defendant Holzapple, Thomas, the Federal Bureau of Prisons (hereinafter "BOP") and the United States are **DISMISSED** with prejudice with regard to the Bivens action;
 - d) Defendants Brown and Sage are **DISMISSED** from the Bivens action without prejudice;
 - e) Defendant United States is **DISMISSED** without prejudice from the Federal Tort Claims Act cause of action;
 - f) The negligence claims under the FCTA against Defendants Sage, Pigos, Brown, Edinger, Dees, Holzapple, Thomas, John Does 1-10 and the BOP are **DISMISSED** with prejudice;

g) Plaintiff's constitutional claim against Defendant's John Does 1-10 are **DISMISSED** without prejudice;

h) Plaintiff's Eighth Amendment denial of medical care claim Bivens claim against Defendants Dees, Pigos and Edinger are permitted to proceed; and

3) Plaintiff is provided twenty-one (21) days from the date of this order to file an amended complaint to properly plead causes of action with regard to the parties that are dismissed without prejudice. Failure to file a timely amended complaint will result in the dismissal of those claims/defendants with prejudice.

4) The Clerk of Court is directed to remand this case to Magistrate Judge Blewitt.

BY THE COURT:

s/ James M. Munley

JUDGE JAMES M. MUNLEY
United States District Court